HIGH COURT OF HIMACHAL PRADESH, SHIMLA.

CWP No.619 of 2003

Judgment reserved on: 9.5.2007

Date of Decision: 21.5.2007

Suresh Kumar ……. Petitioner

Versus

State Bank of India & another …….. Respondents.

Coram:

The Hon'ble Mr. Justice Sanjay Karol, Judge.

Whether approved for reporting? Yes.

For the petitioner : Mr. Praneet Gupta, Advocate.

For the respondents : Mr. G. C. Gupta, Sr. Advocate with Mr. Mohinder Gautam, Advocate.

Sanjay Karol, J.

Shri Kashmir Singh, while working as Guard with the respondent – bank at Chatrokhri, Sundernagar, Distt. Mandi, died on 28.7.2000. He left behind his widowed wife and two sons including petitioner Suresh Kumar. The elder son Sanjay Kumar, lived separately with his wife and two daughters, without contributing at all to the family earnings. The financial position of the family, at the time of death of the employee was stated to be quite precarious. Petitioner and his mother represented to the respondents requesting them for benefit of compassionate appointment in terms of the scheme floated by the bank. The request of the petitioner was turned down vide letter dated 29th May, 2003.

Whether reporters of Local Papers may be allowed to see the judgment?

"The Scheme for appointment on Compassionate Grounds for dependants of deceased employees / employees retired on medical grounds (updated upto 1.1.1998)" (referred to as the Scheme) promoted by the respondent – Bank for granting compassionate appointment is to enable the family to tide over certain crisis due to death of the bread winner. It is only when the Bank is satisfied that the financial condition of the family is such that but for the provision of employment, the family may not be able to meet the crisis, the employment is given. Mere death of an employee in harness does not automatically entitle the dependants of the deceased for employment.

Clause 6 of the Scheme stipulates that such of those dependants who are minors, their applications for compassionate appointment have to be made within one year of the death of the employee. However, from the date of death, the offer of appointment can be kept open only upto a maximum period of 6 years. The period within which the application is to be made, is one year.

The bank has filed the counter affidavit giving reasons for rejection of the application. The bank found that the application of the petitioner was not filed within a period of one year from the date of the death. Also the deceased employee had an income of Rs.5892.00 per annum from all sources on the date of his death. Admittedly, petitioner filed the application on 3.9.2001 beyond a period of one year. That apart the family of the deceased had sufficient income. Over a period of one year, the family was able to sustain itself. From the record, it is evident that the family was having immovable property of 10 bighas of land and a house.

In **State of J & K and others** vs. **Sajad Ahmed Mir**, reported in 2006 (5) SCC 766, and **National Institute of Technology and others** vs. **Niraj Kumar Singh**, reported in 2007(2) SCC 481, the Apex Court has clarified that compassionate appointment must be under the scheme in consonance with Articles 14 and 16 of the Constitution of India. The compassionate appointment is given to the widow or the dependant children of the employee who died in harness only with a view to render some assistance to the dependants so that they do not become destitute. Admittedly, in the present case, the family has been able to effectively tide over the crisis after the death of the employee, who died on 28.7.2000.

For the foregoing reasons, I see no reason to exercise extra ordinary jurisdiction and interfere with the decision of the respondent – Bank. There is no merit in the writ petition, which is accordingly dismissed.

(Sanjay Karol),
Judge.

May 21, 2007.
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